THE MARK O. HATFIELD

COURTHOUSE NEWS

A Summary of Topical Highlights from decisions of the U.S. District Court for the District of Oregon

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Criminal Law

In a case of first impression in this Circuit, Judge Anna J. Brown held that 18 U.S.C. 924(1)(1)(A) defines a substantive crime proscribing false statements in an ATF form. The court rejected defense motions to dismiss counts of an indictment under this section of the statute on grounds that this provision set forth a penalty but no proscribed offense. United States v. Mascak, CR 01-512-BR (Opinion, November, 2002).
AUSA: Fred Weinhouse
Defense Counsel: Ellen Pitcher,
Ken Lerner, Whitney Boise

Patents

A patent licensee of a remote-control for model railroads continued to sell licensed products after termination and then began to sell a similar product under its own patent. The licensor filed an action asserting patent infringement and violations of the licensing agreement for post-termination sales. Judge Robert E. Jones conducted a Markman hearing and issued claim construction findings under a "means-plus-function" claim. The court concluded that genuine issues of material fact existed for claims of literal infringement and infringement under the doctrine of equivalents.

Judge Jones also held that the parties were bound to honor an arbitration clause in the license agreement and referred the post-termination sale claim to arbitration. QS Industries, Inc. v. Mike's Train House, CV 00-1616-JO (Oct. 10, 2002).
Plaintiff's Counsel:
John W. Stephens
Defense Counsel:
Michael E. Farnell

7 Judge Anna J. Brown denied a defense motion for summary judgment in a patent infringement action. The defendant had argued that commercial purpose should be irrelevant to a de minimis exception to an infringement claim. The court noted the absence of any legal support for such a proposition. Semitool, Inc. v. Ebara Corp., CV 01-873-BR (Oct. 31, 2002).
Plaintiff's Counsel:
Paul Fortino
Defense Counsel:
David Axelrod

Copyrights

A former advertising agency employee/independent contractor filed an action asserting various claims for breach of contract, unjust enrichment and misappropriation. Plaintiff claimed that while working for defendant as an independent contractor, he developed an audio segment for a Nike commercial; his idea was rejected internally, but following his departure, plaintiff claimed that defendant copied the idea using different artists. Judge Dennis J. Hubel granted a motion to dismiss the unjust enrichment and misappropriation claims based upon preemption under the federal copyright act. Stringer v. Wieden & Kennedy, Inc., CV 02-434-HU (Opinion, Oct. 11, 2002).
Plaintiff's Counsel:
James Johns (WA)
Randolph C. Foster (Local)

ERISA

Plaintiff filed an action in state court seeking compensation under a severance pay contract.

Defendant removed the action to federal court on the basis of ERISA preemption. Defendant then moved for summary judgment on various theories, none of which related to an ERISA plan or ERISA itself. The court raised concerns with the parties about subject matter jurisdiction and, thereafter, plaintiff sought remand contesting ERISA preemption. Judge Anna J. Brown denied the motion to remand, concluding that the severance pay agreement at issue was an ERISA plan and that plaintiff's claims related to the plan such that ERISA preemption was established. Grimm v. Healthmont, Inc., CV 01-982-BR (Opinion, Oct. 11, 2002).

Plaintiff's Counsel:
Linda Marshall
Defense Counsel: Caroline Guest

Environment

The Oregon Legislature approved a study of the native elk population to be undertaken by the Oregon Department of Fish and Wildlife. The program called for an examination of predation by cougar and bear populations, the extermination of a number of cougars and a collaring program to track the animals. An environmental group filed an action challenging the study under the National Environmental Policy Act (NEPA) and the Wildlife Restoration Act (WRA).

Judge Dennis J. Hubel held that the challenged activity constituted a "major federal action" under NEPA because of significant federal funding (75% and $3 million) along with federal oversight and monitoring for compliance with federal plans and specifications. The court also largely rejected defense arguments that plaintiffs lacked standing and/or that the claims were not yet ripe.

On the merits, Judge Hubel found that the proposed cougar removal plans triggered the need, under NEPA, for the preparation of an EIS. The court rejected claims that other actions, such as the collaring program, also required EIS preparation. Judge Hubel also granted a defense motion for summary judgment against the WRA claims. The court granted a narrowly tailored injunction against pending preparation of an EIS in accordance with the court's opinion. Sierra Club v. U.S. Forest Service, CV 02-174-HU (Opinion, Oct. 29, 2002).

Plaintiff's Counsel:
Brenna B. Beel
Defense Counsel:
Jeff Handy (U.S.);
Liani Reeves (OR)

Constitutional Law

The owners of a wrecking yard filed a civil rights action against a City and its City Council alleging that the Council adopted an ordinance designed to deprive them of their operating license. Plaintiffs also asserted an OTCA claim for tortious interference with contract.

Judge Robert E. Jones granted the individual Council members' motion for summary judgment based upon application of legislative immunity. The court gave plaintiffs leave to amend its complaint to specifically allege how, if at all, the City violated their constitutional rights. Judge Jones also granted summary judgment against the OTCA claim because the challenged activity fell within the discretionary function exception. Thornton v. City of St. Helens, CV 02-325-JO (Opinion, Nov. 19, 2002).

Plaintiffs' Counsel:
James Huffman
Defense Counsel:
Keith Pitt